

I HEREBY CERTIFY THAT THIS CORRESPONDENCE IS BEING DEPOSITED WITH THE UNITED STATES POSTAL SERVICE AS FIRST CLASS MAIL IN AN ENVELOPE ADDRESS TO THE COMMISSIONER FOR TRADEMARKS, 2900 CRYSTAL DRIVE, ARLINGTON, VA 22202-3514 ON THE DATE INDICATED BELOW

By: Southwest-Mose

DATE: 10/14/03

BOX TTAB - NO FEE

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re : Trademark Application of Epiphany

Serial No. : 78/168,706

Filed : September 27, 2002

Mark : SEXY SOLES IN SIXTY SECONDS

Docket No. 085663

**REQUEST UNDER RULE 2.102 TO EXTEND
TIME FOR FILING NOTICE OF OPPOSITION**

Commissioner Trademarks
2900 Crystal Drive
Arlington, VA 22202-3514

Dear Sir:

In the matter of the above-identified application which was published in the Official Gazette of April 22, 2003 on page TM 141, Sexy Hair Concepts, LLC requests that the time for filing a Notice of Opposition to the above application be extended for a period of thirty (30) days up to and including November 19, 2003. The extension of time is sought in good faith and not for any improper purpose of delay to permit our client to consult with us about the advisability of filing an opposition and to pursue further communications with applicant. Counsel for Applicant consented by telephone on October 13, 2003 to this extension.

Respectfully submitted,

BALLARD SPAHR ANDREWS & INGERSOLL, LLP

Dated: October 14, 2003

By: [Signature]

Roberta Jacobs-Meadway
Richard E. Petre
Patricia G. Cramer
1735 Market Street - 51st Floor
Philadelphia, PA 19103-7599
(215)864-8201 / (215)665-8500

ATTORNEYS FOR POTENTIAL OPPOSER

OPP NO.
125,739
(SO SEXY)

EXHIBIT 15-1	
Deponent	<u>M. Stiller</u>
Date	<u>9.28.04</u> Rptr. <u>mg</u>
DEFOBOOK	

TRADEMARK RETURN POSTCARD

ATTY PGC SECY OWN DATE 10/14/03 ATTY DOCKET NO. 0857603
 CERT OF MAIL/CERT OF SERVICE/EXPRESS MAIL LABEL NO. _____
 TM.AP/REG/OPP/CANC # TBD

OF: Sexy Hair Concepts, LLC - Epiphany
 FOR: Spec Sales in sixty seconds

RECEIPT IS ACKNOWLEDGE BY THE USPTO
 FOR THE FOLLOWING:

____ TRADEMARK APPLICATION: USE ITU
 ____ SPECIMENS DRAWING PAGE
 ____ RENEWAL APPLICATION
 ____ AFF/DEC 8 / 15 / 8&15
 ____ AMEND TO ALLEGE USE
 ____ STATEMENT OF USE
 ____ REQ.EXT. TIME FOR SOU
 ____ FOREIGN REG TRANSLATION
 ____ COUNTRY REG. NO.
 ____ AMEND/REQ. RECONSIDERATION

____ RESPONSE TO ACTION
 ____ TRANSMITTAL LETTER
 ____ ASSIGN/CHG NAME/MERGER/SEC INT
 ____ NOTICE OF APPEAL/APPEAL BRIEF
 ____ NOTICE OF OPPOSITION
 ____ PETITION TO CANCEL
 ____ REQ.EXT. TIME TO OPPOSE
☒ MOT FOR EXT. OF TIME of consent
 ____ APPOINT DOMESTIC REPRESENTATIVE
 ____ REVOC/APPT. OF ATTORNEY

OTHER (PAPER TITLE) _____

FEE AUTH CHARGE B.S.A.I. DEPOSIT. ACCT. #02-0755 \$ 0.12

SHC 3047

15-2



Ballard Spahr Andrews & Ingersoll, LLP
1735 Market Street - 51st Floor
Philadelphia, PA 19103

Attn. Pamela Comer

SHC 3048

15-3

I HEREBY CERTIFY THAT THIS CORRESPONDENCE IS BEING DEPOSITED WITH THE UNITED STATES POSTAL SERVICE AS FIRST CLASS MAIL IN AN ENVELOPE ADDRESS TO THE COMMISSIONER FOR TRADEMARKS, 2900 CRYSTAL DRIVE, ARLINGTON, VA 22202-3514 ON THE DATE INDICATED BELOW

BY: Robert Jacobs-Meadway

DATE: 9/16/03

BOX TTAB - NO FEE

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re : Trademark Application of Epiphany

Serial No. : 78/168,706

Filed : September 27, 2002

Mark : SEXY SOLES IN SIXTY SECONDS

Docket No. 085663

**REQUEST UNDER RULE 2.102 TO EXTEND
TIME FOR FILING NOTICE OF OPPOSITION**

Commissioner Trademarks
2900 Crystal Drive
Arlington, VA 22202-3513

Dear Sir:

In the matter of the above-identified application which was published in the Official Gazette of April 22, 2003 on page TM 141, Sexy Hair Concepts, LLC requests that the time for filing a Notice of Opposition to the above application be extended for a period of thirty (30) days up to and including October 20, 2003. The extension of time is sought in good faith and not for any improper purpose of delay to permit our client to consult with us about the advisability of filing an opposition and to pursue further communications with applicant. Counsel for Applicant consented by telephone on September 16, 2003 to this extension.

Respectfully submitted,

BALLARD SPAHR ANDREWS & INGERSOLL, LLP

Dated: September 16, 2003

By: 

Roberta Jacobs-Meadway
Richard E. Peirce
Patricia G. Cramer
1735 Market Street - 51st Floor
Philadelphia, PA 19103-7599
(215)864-8201 / (215)665-8500

ATTORNEYS FOR POTENTIAL OPPOSER

TRADEMARK RETURN POSTCARD

ATTY GC SECY DMU DATE 9/16/03 ATTY DOCKET NO. 085663
CERT OF MAIL/CERT OF SERVICE/EXPRESS MAIL LABEL NO. _____
TM.AP/REG/OPP/CANC # TBD

OF: Sexy Hair Concepts
FOR: 604 SIZES IN SIXTY SECONDS
RECEIPT IS ACKNOWLEDGE BY THE USPTO
FOR THE FOLLOWING:

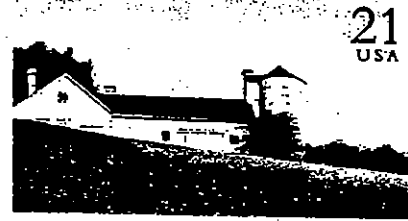
TRADEMARK APPLICATION: USE <u>ITU</u>	<input type="checkbox"/> RESPONSE TO ACTION
SPECIMENS <u>DRAWING PAGE</u>	<input type="checkbox"/> TRANSMITTAL LETTER
RENEWAL APPLICATION	<input type="checkbox"/> ASSIGN/CHG NAME/MERGER/SEC INT
AFF/DEC 8/15/8&15	<input type="checkbox"/> NOTICE OF APPEAL/APPEAL BRIEF
AMEND TO ALLEGE USE	<input type="checkbox"/> NOTICE OF OPPOSITION
STATEMENT OF USE	<input type="checkbox"/> PETITION TO CANCEL
REQ.EXT. TIME FOR SOU	<input checked="" type="checkbox"/> REQ.EXT. TIME TO OPPOSE <u>4/10/04</u>
FOREIGN REG <u>TRANSLATION</u>	<input type="checkbox"/> PET/MOT FOR EXT. OF TIME
COUNTRY <u>REG. NO.</u>	<input type="checkbox"/> APPOINT DOMESTIC REPRESENTATIVE
AMEND/REQ. RECONSIDERATION	<input type="checkbox"/> REVOC/APPT. OF ATTORNEY

OTHER (PAPER TITLE) _____

FEE AUTH CHARGE B.S.A.I. DEPOSIT. ACCT. #02-0755 \$ PLA

SHC 3038

15-5



Ballard Spahr Andrews & Ingersoll, LLP
1735 Market Street - 51st Floor
Philadelphia, PA 19103

Attn:

Principal Counsel

SHC 3039

15-6

LAW OFFICES

BALLARD SPAHR ANDREWS & INGERSOLL, LLP

1735 MARKET STREET, 51ST FLOOR
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BALTIMORE, MD
DENVER, CO
SALT LAKE CITY, UT
VOORHEES, NJ
WASHINGTON, DC

ROBERTA JACOBS-MEADWAY
DIRECT DIAL: 215-864-8201
PERSONAL FAX: 215-864-9950
JACOBSMEADWAYR@BALLARDSPAHR.COM

July 7, 2003

via Federal Express

Michael D. Pegues, Esquire
Munsch Hardt Kopf & Harr, P.C.
4000 Fountain Place
1445 Ross Avenue
Dallas, Texas 75202-2790

Re: U.S. Trademark Application Serial No. 78/168,706
for SEXY SOLES IN SIXTY SECONDS
Our file 085663

Dear Mr. Pegues:

This office represents Sexy Hair Concepts, LLC of Chatsworth CA ("SHC") in connection with trademark and unfair competition matters.

SHC has, since at least as early as June 1998, employed SEXY HAIR as the dominant component of its marks and name in connection with hair care preparations. The nature and extent of the business of SHC and its use of SEXY HAIR may be seen at the website, www.sexyhairconcepts.com.

SHC has taken steps to protect its SEXY HAIR marks and name and has secured U.S. Trademark Registration Nos. 2,403,396; 2,486,702; and 2,553,996 among others. SHC has also brought a number of oppositions to registration of marks which contain or comprise the term SEXY for hair care preparations.

The application that you have filed on behalf of Epiphany for SEXY SOLES IN SIXTY SECONDS, Serial no. 78/168,706, for, inter alia, hair care preparations, has come to our attention and is of concern. Granted the overlap in goods and the dominant nature of the term "SEXY" in your client's mark, we have concern that use of such mark for the goods identified in the application may create a likelihood of confusion as to the source of the product or the affiliation between SHC and Epiphany.

SHC 3026

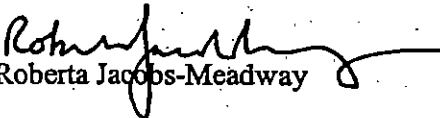
Michael D. Pegues, Esquire
July 7, 2003
Page 2

We note that the use appears to be of relatively recent origin and there appears to be no use for hair care preparations. In the circumstances, we believe the matter may most simply be resolved if Epiphany would amend the description of goods to delete hair care preparations, namely hair oil, from the application, and commit to make no use of the mark on any hair care products or preparations.

Any offer of compromise is, of course, without prejudice to any claim or demand that may be made in the event that other action is deemed appropriate to protect the interests of SHC.

May we please hear from you with respect to your client's intentions in the matter by July 18, 2003.

Sincerely,


Roberta Jacobs-Meadway

RJM/pgc

cc: Mark Stiller (via facsimile)

SHC 3027

LAW OFFICES

BALLARD SPAHR ANDREWS & INGERSOLL, LLP

1735 MARKET STREET, 51ST FLOOR
PHILADELPHIA, PENNSYLVANIA 19103-7599

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VOORHEES, NJ
WASHINGTON, DC
WILMINGTON, DE

ROBERTA JACOBS-MEADWAY
DIRECT DIAL: 215-864-8201
PERSONAL FAX: 215-864-9950
JACOBSMEADWAYR@BALLARDSPAHR.COM

July 31, 2003

via Facsimile

Michael D. Pegues, Esquire
Munsch Hardt Kopf & Harr, P.C.
4000 Fountain Place
1445 Ross Avenue
Dallas, Texas 75202-2790

Re: U.S. Trademark Application Serial No. 78/168,706
for SEXY SOLES IN SIXTY SECONDS
Our file 085663

Dear Mr. Pegues:

This is to confirm your conversation with my colleague, Patricia Cramer, on July 29, 2003 that your client is agreeable to amending the above referenced application to exclude hair care preparations, namely hair oil. We have forwarded a draft of a proposed agreement to our client for review and will send it to you shortly.

We also appreciate your agreement to a thirty extension of time for filing a notice of opposition. A copy of the filed extension is attached for your files.

While I am out of the office from August 7, 2003 until August 25, 2003, please do not hesitate to contact Patricia, at 215-864-8607, cramerp@ballardspahr.com, with any questions.

Sincerely,


Roberta Jacobs-Meadway

RJM/pgc

cc: Mark Stiller (via facsimile)

I HEREBY CERTIFY THAT THIS CORRESPONDENCE IS BEING DEPOSITED WITH THE UNITED STATES POSTAL SERVICE AS FIRST CLASS MAIL IN AN ENVELOPE ADDRESS TO THE COMMISSIONER FOR TRADEMARKS, 2900CRYSTAL DRIVE, ARLINGTON, VA 22202-3513 ON THE DATE INDICATED BELOW

By: Heath Meadway
DATE: 7/31/03

BOX TTAB - NO FEE

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re : Trademark Application of Epiphany

Serial No. : 78/168,706

Filed : September 27, 2002

Mark : SEXY SOLES IN SIXTY SECONDS

Docket No. 085663

**REQUEST UNDER RULE 2.102 TO EXTEND
TIME FOR FILING NOTICE OF OPPOSITION**

Commissioner Trademarks
2900 Crystal Drive
Arlington, VA 22202-3513

Dear Sir:

In the matter of the above-identified application which was published in the Official Gazette of April 22, 2003 on page TM 141, Sexy Hair Concepts, LLC requests that the time for filing a Notice of Opposition to the above application be extended for a period of thirty (30) days up to and including September 20, 2003. The extension of time is sought in good faith and not for any improper purpose of delay to permit our client to consult with us about the advisability of filing an opposition and to pursue further communications with applicant. Counsel for Applicant consented by telephone on July 29, 2003 to this extension.

Respectfully submitted,

BALLARD SPAHR ANDREWS & INGERSOLL, LLP

Dated: July 31, 2003

By: Roberta Jacobs-Meadway

Roberta Jacobs-Meadway

Richard E. Peirce

Patricia G. Cramer

1735 Market Street - 51st Floor

Philadelphia, PA 19103-7599

(215)864-8201 / (215)665-8500

ATTORNEYS FOR POTENTIAL OPPOSER

TRADEMARK RETURN POSTCARD

ATTY PBC SECY ONM DATE 7/3/13 ATTY DOCKET NO. 085663
 CERT OF MAIL/CERT OF SERVICE/EXPRESS MAIL LABEL NO. _____
 TM.AP/REG/OPP/CANC # Request for Extension of Time
 OF: by Secy and Contacts
 FOR: SECY SEC3 in SIXTY SECONDS - 76/168,706
 RECEIPT IS ACKNOWLEDGE BY THE USPTO FOR THE FOLLOWING:

<input type="checkbox"/> TRADEMARK APPLICATION: USE <u>ITU</u>	<input type="checkbox"/> RESPONSE TO ACTION
<input type="checkbox"/> SPECIMENS <u>DRAWING PAGE</u>	<input type="checkbox"/> TRANSMITTAL LETTER
<input type="checkbox"/> RENEWAL APPLICATION	<input type="checkbox"/> ASSIGN/CHG NAME/MERGER/SEC INT
<input type="checkbox"/> AFF/DEC 8/15/8&15	<input type="checkbox"/> NOTICE OF APPEAL/APPEAL BRIEF
<input type="checkbox"/> AMEND TO ALLEGE USE	<input type="checkbox"/> NOTICE OF OPPOSITION
<input type="checkbox"/> STATEMENT OF USE	<input type="checkbox"/> PETITION TO CANCEL
<input type="checkbox"/> REQ.EXT. TIME FOR SOU	<input checked="" type="checkbox"/> REQ.EXT. TIME TO OPPOSE
<input type="checkbox"/> FOREIGN REG <u>TRANSLATION</u>	<input type="checkbox"/> PET/MOT FOR EXT. OF TIME
<input type="checkbox"/> COUNTRY <u>REG. NO.</u>	<input type="checkbox"/> APPOINT DOMESTIC REPRESENTATIVE
<input type="checkbox"/> AMEND/REQ. RECONSIDERATION	<input type="checkbox"/> REVOC/APPT. OF ATTORNEY

OTHER (PAPER TITLE) _____

FEE AUTH CHARGE B.S.A.I. DEPOSIT. ACCT. #02-0755 \$ NA

SHC 3030

15-11



Ballard Spahr Andrews & Ingersoll, LLP
1735 Market Street - 51st Floor
Philadelphia, PA 19103

Attn. *Pamela G. Comer*

USA 2008 46c

SHC 3031

15-12

LAW OFFICES

BALLARD SPAHR ANDREWS & INGERSOLL, LLP

1735 MARKET STREET, 51ST FLOOR
PHILADELPHIA, PENNSYLVANIA 19103-7599
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DENVER, CO
SALT LAKE CITY, UT
VOORHEES, NJ
WASHINGTON, DC

PATRICIA G. CRAMER
DIRECT DIAL: 215-864-8607
PERSONAL FAX: 215-864-9744
CRAMERP@BALLARDSPAHR.COM

August 1, 2003

via Facsimile

Michael D. Pegues, Esquire
Munsch Hardt Kopf & Harr, P.C.
4000 Fountain Place
1445 Ross Avenue
Dallas, Texas 75202-2790

Re: U.S. Trademark Application Serial No. 78/168,706
for SEXY SOLES IN SIXTY SECONDS
Our file 085663

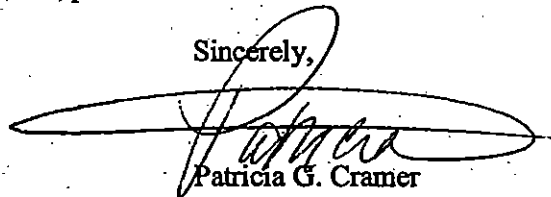
Dear Michael:

Attached for your review is a copy of the proposed Settlement Agreement in connection with the above referenced matters. Please let me know if you have any comments at your early convenience.

Please note that while I will be out of the office the week of August 4, 2003, I will be checking my voicemail and have limited access to e-mail.

If you have any questions, please do not hesitate to contact me.

Sincerely,



Patricia G. Cramer

Attachments

cc: Mark Stiller (via facsimile, w/o enc.)
Roberta Jacobs-Meadway, Esquire (w/o enc.)

SHC 3032

15-13

AGREEMENT

This Agreement entered into as of August ____, 2003, by and between Epiphany ("Epiphany"), a Texas Corporation, having a mailing address of 835 East Lamar, #106, Arlington, Texas, 76011, and Sexy Hair Concepts, LLC ("SHC"), a California limited liability company having an address of 9232 Eton Avenue, Chatsworth, California, 91311.

WHEREAS, SHC has, since at least as early as June 1998, employed SEXY HAIR as the dominant component of its marks and name in connection with hair care preparations and has secured U.S. Trademark Registration Nos. 2,403,396; 2,486,702; and 2,553,996 among others. ;

WHEREAS, Epiphany is the owner of the trademark SEXY SOLES IN SIXTY SECONDS for, inter alia, hair care preparations, as set forth in U.S. Trademark Application Serial No. 78/168,706 filed on September 27, 2002, for the same, among other things (the "Epiphany Application"); and

WHEREAS, SHC has filed a Request for Extension of Time to oppose registration of the mark of the Epiphany Application; and

WHEREAS, Epiphany has agreed to file documentation with the U.S. Patent and Trademark Office to amend the description of the goods of Epiphany Application to exclude "hair care preparations, namely hair oil; and

WHEREAS, the parties have exchanged information and materials and wish confirm their mutual understanding to resolve the potential opposition.

NOW THEREFORE, in consideration of the foregoing and the undertakings set forth hereinafter and intending to be legally bound, the parties hereby agree as follows:

1. Within ten (10) business days of the date hereof Epiphany shall file an amendment to the Epiphany application with the U.S. Patent and Trademark Office to amend the description of the goods of Epiphany Application to exclude "hair care preparations, namely hair oil.
2. Epiphany shall limit the use of the mark to the goods identified in the Epiphany Application, as amended.
3. Epiphany agrees not to use the SEXY SOLES IN SIXTY SECONDS name or mark or any name or mark which contains or comprises the term "SEXY," on or in connection with hair care preparations or products.
4. SHC agrees not to file a Notice of Opposition to the mark of the Epiphany Application, as amended, or petition to cancel any registration which issues on the Epiphany Application, as amended, provided Epiphany is in compliance with the terms of this Agreement and has not abandoned use of SEXY SOLES IN SIXTY SECONDS.
5. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors, heirs, assigns and related companies or affiliates.

6. This Agreement constitutes the entire agreement of the parties with respect to the subject matter hereof and there are no other agreements or understandings, whether oral or written.

7. This Agreement may be modified or amended only by written agreement signed by both of the parties hereto.

8. This Agreement may be executed in counterparts which, taken together, shall comprise one single legal instrument.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first written above.

EPIPHANY

By: _____
Name: _____
Title: _____

SEXY HAIR CONCEPTS, LLC

By: _____
Name: Mark Stiller
Title: Chief Financial Officer
